



General Assembly

Substitute Bill No. 5718

February Session, 2002

***AN ACT CONCERNING THIRD-PARTY LIABILITY FOR
CONTAMINATED PROPERTY AND MINOR REVISIONS TO
ENVIRONMENTAL STATUTES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-4 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2002*):

3 (a) The commissioner may, subject to the provisions of chapter 67,
4 employ such agents, assistants and employees as he deems necessary
5 to carry out his duties and responsibilities. He may retain and employ
6 other consultants and assistants on a contract or other basis for
7 rendering legal, financial, technical or other assistance and advice.

8 (b) The commissioner may allow an applicant for a permit or other
9 license pursuant to title 22a to hire an independent consultant, at the
10 expense of the applicant, to review the application and recommend
11 that the commissioner accept or reject the application.

12 Sec. 2. Subsections (a) and (b) of section 22a-133m of the general
13 statutes are repealed and the following is substituted in lieu thereof
14 (*Effective October 1, 2002*):

15 (a) An urban sites remedial action program is established to
16 identify, evaluate, plan for and undertake the remediation of polluted
17 real property. [which is deemed vital to the economic development

18 needs of the state.]

19 (b) The Commissioner of Economic and Community Development,
20 in consultation with the Commissioner of Environmental Protection,
21 shall establish the priority of sites for evaluation and remediation
22 based upon the following factors: (1) The estimated cost of evaluating
23 and remediating the site, if known; (2) the anticipated complexity of an
24 evaluation of the site; (3) the estimated schedule for completing an
25 evaluation; (4) the potential economic development benefits of the site
26 to the state of Connecticut; [and] (5) whether the site would not
27 otherwise be remediated without the assistance of this program; and
28 (6) any other factors which the commissioners deem relevant. No real
29 property shall be eligible for evaluation or remediation under this
30 section unless: (A) The Commissioner of Economic and Community
31 Development finds that the state owns the site or otherwise has or
32 obtains the power to approve the type of development which first
33 occurs on the site after remediation; and (B) the Commissioner of
34 Environmental Protection is unable to determine the responsible party
35 for the pollution or the cleanup of the site, or the responsible party is
36 not in timely compliance with orders issued by the commissioner to
37 provide remedial action, or the commissioner has not issued a final
38 decision on an order to a responsible party to provide remedial action
39 because of (i) a request for a hearing on an order, or (ii) an order issued
40 is subject to an appeal pending before a court. Except for any site
41 proposed for acquisition under subsection (e) of this section, no real
42 property shall be eligible for evaluation or remediation under this
43 section unless the site is located in a distressed municipality, as
44 defined in section 32-9p, as amended, or a targeted investment
45 community, as defined in section 32-222, as amended. For purposes of
46 this section, "responsible party" means any person, as defined in
47 section 22a-2, who created a source of pollution on the site or an owner
48 of the site during the investigation or remediation funded pursuant to
49 this section.

50 Sec. 3. Subdivision (3) of section 22a-134 of the general statutes, as
51 amended by section 15 of public act 01-204 and section 73 of public act

52 01-9 of the June special session, is repealed and the following is
53 substituted in lieu thereof (*Effective October 1, 2002*):

54 (3) "Establishment" means any real property at which or any
55 business operation from which (A) on or after November 19, 1980,
56 there was generated, except as the result of remediation of polluted
57 soil, groundwater or sediment, more than one hundred kilograms of
58 hazardous waste in any one month, (B) hazardous waste generated at a
59 different location was recycled, reclaimed, reused, stored, handled,
60 treated, transported or disposed of, (C) the process of dry cleaning was
61 conducted on or after May 1, 1967, (D) furniture stripping was
62 conducted on or after May 1, 1967, or (E) a vehicle body repair facility
63 was located on or after May 1, 1967, but does not mean a small or large
64 quantity generator, as defined in regulations adopted by the
65 commissioner under section 22a-449, that generate more than one
66 hundred kilograms of universal waste, as determined by regulations
67 adopted by the commissioner under section 22a-209i, in any one
68 month.

69 Sec. 4. Section 22a-196 of the general statutes is repealed and the
70 following is substituted in lieu thereof (*Effective October 1, 2002*):

71 No asphalt batching or continuous mix facility shall be located in an
72 area which is less than one-third of a mile in linear distance from any
73 hospital, nursing home, school, area of critical environmental concern,
74 watercourse, or area occupied by residential housing. Such distance
75 shall be measured from the outermost perimeter of such facility to the
76 outermost point of such zones. [provided that any such facility in
77 operation] Nothing in this section shall limit the authority of the
78 Commissioner of Environmental Protection to issue a permit to any
79 facility constructed or in operation as of December 31, 1997. [, shall not
80 be subject to the provisions of this section.]

81 Sec. 5. Section 22a-449k of the general statutes is repealed and the
82 following is substituted in lieu thereof (*Effective October 1, 2002*):

83 No person shall remove or replace or subcontract for the removal or

84 replacement of a residential underground heating oil storage tank
85 system if the person finds such removal or replacement will involve
86 remediation of contaminated soil or groundwater [, the costs of which
87 are to be paid out of the residential underground heating oil storage
88 tank system clean-up subaccount established pursuant to subsection
89 (b) of section 22a-449c,] unless the person is a registered contractor. To
90 become a registered contractor, a person shall provide to the
91 Commissioner of Environmental Protection, on forms prescribed by
92 said commissioner, (1) evidence of financial assurance in [the form of
93 insurance, a surety bond or liquid company assets in an amount not
94 less than two hundred fifty thousand dollars] accordance with the
95 standards established pursuant to subsection (c) of section 22a-449d, as
96 amended, and (2) a written statement certifying that such person has
97 had [any] training [required by law] for such business in accordance
98 with the standards established pursuant to subsection (c) of section
99 22a-449d, as amended, and that such person has (A) performed no
100 fewer than three residential underground petroleum storage tank
101 system removals, or (B) has contracted for at least three removals of
102 residential underground petroleum storage tank systems. Such person
103 shall pay a registration fee of five hundred dollars to the
104 commissioner. Each contractor holding a valid registration on July first
105 shall, not later than August first of that year, pay a renewal fee to the
106 commissioner of two hundred fifty dollars in order to maintain such
107 registration. Any money collected for registration pursuant to this
108 section shall be deposited in the Environmental Quality Fund. The
109 commissioner may revoke a registration for cause [and, on and after
110 the date the review board establishes requirements for financial
111 assurance, training and] which shall include, but not be limited to,
112 failure to meet the performance standards under subsection (c) of
113 section 22a-449d, as amended. [, may reject any application for
114 registration that does not meet such requirements.]

115 Sec. 6. Subsection (e) of section 25-43c of the general statutes is
116 repealed and the following is substituted in lieu thereof (*Effective*
117 *October 1, 2002*):

118 (e) No water company complying with the provisions of this section
119 that permits any recreational activity on any lands or waters which
120 such company owns, controls or has the right to use in carrying out its
121 operations shall be liable in damages except with respect to wilful or
122 wanton conduct for injury or property damage to any person who
123 enters upon [its] such lands or waters. [under the provisions of this
124 section.]

125 Sec. 7. (NEW) (*Effective October 1, 2002*) (a) No owner of real
126 property shall be liable for any costs or damages pursuant to any
127 provision of the general statutes or common law to any person other
128 than this state, any other state or the federal government, with respect
129 to any pollution or source of pollution on or emanating from such
130 owner's real property that occurred or existed prior to such owner
131 taking title to such property, provided:

132 (1) The owner did not establish or create a condition or facility at or
133 on such property that reasonably can be expected to create a source of
134 pollution to the waters of the state for purposes of section 22a-432 of
135 the general statutes and such owner is not responsible pursuant to any
136 other provision of the general statutes for creating any pollution or
137 source of pollution on such property;

138 (2) The owner is not affiliated with any person responsible for such
139 pollution or source of pollution through any direct or indirect familial
140 relationship, or any contractual, corporate or financial relationship
141 other than that by which such owner's interest in the property was
142 conveyed or financed; and

143 (3) The Commissioner of Environmental Protection has approved in
144 writing: (A) An investigation of the pollution and sources of pollution
145 on or emanating from the real property which pollution or sources of
146 pollution occurred prior to such owner's taking title to such property,
147 conducted in accordance with the prevailing standards and guidelines
148 which investigation was conducted by an environmental professional
149 licensed in accordance with section 22a-133v of the general statutes;

150 and (B) a final remedial action report prepared by a licensed
 151 environmental professional that demonstrates that remediation of such
 152 pollution and sources of pollution was completed in accordance with
 153 the remediation standards in regulations adopted pursuant to section
 154 22a-133k of the general statutes.

155 (b) This section shall not relieve any such liability where (1) an
 156 owner failed to file or comply with the provisions of an environmental
 157 land use restriction created pursuant to section 22a-133o of the general
 158 statutes for such real property or with the conditions of a variance for
 159 the real property that was approved by the commissioner in
 160 accordance with regulations adopted pursuant to section 22a-133k of
 161 the general statutes, or (2) the commissioner, at any time, determines
 162 that an owner provided information that it knew or had reason to
 163 know was false or misleading or otherwise failed to satisfy all of the
 164 requirements of subsection (a) of this section. Nothing in this section
 165 shall be construed to relieve an owner of any liability for pollution or
 166 sources of pollution on or emanating from such property that occurred
 167 or were created after the owner took title to such property.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>October 1, 2002</i>
Sec. 7	<i>October 1, 2002</i>

ENV *Joint Favorable Subst.*

FIN *Joint Favorable*

CE *Joint Favorable*